

EXHIBIT 30

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL) MDL NO. 1456
INDUSTRY AVERAGE WHOLESALE) CIVIL ACTION
PRICE LITIGATION) 01-CV-12257-PBS
THIS DOCUMENT RELATES TO)
U.S. ex rel. Ven-a-Care of) Judge Patti B. Saris
the Florida Keys, Inc.)
v.) Chief Magistrate
Abbott Laboratories, Inc.,) Judge Marianne B.
No. 06-CV-11337-PBS) Bowler

(cross captions appear on following pages)

Videotaped deposition of SUE GASTON

Volume I

Washington, D.C.

Thursday, January 24, 2008

9:00 a.m.

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<p style="text-align: right;">Page 38</p> <p>1 division?</p> <p>2 A. Clerical.</p> <p>3 Q. After that what did you do?</p> <p>4 A. Disability operations in Social Security.</p> <p>5 Q. What was the nature of your job in that?</p> <p>6 A. Processing foreign claims. Social</p> <p>7 Security claims.</p> <p>8 Q. Was that a clerical or a --</p> <p>9 A. I was a benefit authorizer.</p> <p>10 Q. Okay. So that's more than clerical?</p> <p>11 A. Correct.</p> <p>12 Q. So you were to look at the forms and</p> <p>13 decide whether or not to -- or make recommendations</p> <p>14 on whether or not to authorize benefits?</p> <p>15 A. No. We just -- we did more of -- we</p> <p>16 didn't determine or authorize claims. But we</p> <p>17 processed the claims after the authorization</p> <p>18 occurred.</p> <p>19 Q. What was the next job you had after that?</p> <p>20 A. With HCFA.</p> <p>21 Q. Okay. Was this your first job with HCFA?</p> <p>22 A. Yes.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. From 1991 to February of 2003 you were</p> <p>2 health insurance specialist at HCFA; is that right?</p> <p>3 A. Yes. Our actual title when I first</p> <p>4 started was different than health insurance</p> <p>5 specialist. But it was all basically the same job.</p> <p>6 They changed the name of the job.</p> <p>7 Q. But your duties and responsibility in</p> <p>8 this job were the same from April of 1991 through</p> <p>9 February of '03; is that right?</p> <p>10 A. Correct.</p> <p>11 Q. And tell me about your job at that time.</p> <p>12 What were you doing?</p> <p>13 A. I was working with the Medicaid drug</p> <p>14 rebate program pharmacy reimbursement and coverage</p> <p>15 issues.</p> <p>16 Q. When you say pharmacy reimbursement, what</p> <p>17 do you mean by that?</p> <p>18 A. It's drug reimbursement with the -- we</p> <p>19 did state plan amendments and covered issues that</p> <p>20 came up for drug coverage under Medicaid.</p> <p>21 Q. And when you say drug coverage under</p> <p>22 Medicaid, you mean what drugs would be covered under</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. And what was your position there?</p> <p>2 A. I don't recall the job title at that</p> <p>3 time.</p> <p>4 Q. On the resume that you created for</p> <p>5 purposes of this deposition -- I appreciate that --</p> <p>6 the last one I have on the page runs the dates May</p> <p>7 1988 to April 1991, post entitlement technical</p> <p>8 expert, Social Security Administration, Office of</p> <p>9 Disability and International Operations. Have we</p> <p>10 talked about that one yet?</p> <p>11 A. Well, I went in there as a benefit</p> <p>12 authorizer and then I was promoted to the post</p> <p>13 entitlement technical expert. But it was still</p> <p>14 foreign claims and it was -- from benefit authorizer</p> <p>15 to the post entitlement job, it was all within those</p> <p>16 years.</p> <p>17 Q. And you worked at the Social Security</p> <p>18 Administration until April of 1991; is that right?</p> <p>19 A. Correct.</p> <p>20 Q. During your time at the SSA did you</p> <p>21 confront issues relating to pharmacy?</p> <p>22 A. No.</p>	<p style="text-align: right;">Page 41</p> <p>1 Medicaid, correct?</p> <p>2 A. Right.</p> <p>3 Q. Not necessarily, in that category at</p> <p>4 least, the level of payment to be paid; is that</p> <p>5 right?</p> <p>6 A. Both. Whether a drug was covered under</p> <p>7 Medicaid and also any of the payment issues that</p> <p>8 would come up, what states would pay by the state</p> <p>9 planned amendments.</p> <p>10 Q. You also referenced the Medicaid drug</p> <p>11 rebate program; is that right?</p> <p>12 A. Correct.</p> <p>13 Q. What was the nature of your involvement</p> <p>14 in that during this time?</p> <p>15 A. The Medicaid drug rebate program</p> <p>16 determines if drugs are covered under Medicaid.</p> <p>17 Q. What was the nature of your job with</p> <p>18 respect to the Medicaid drug rebate program? What</p> <p>19 did you do?</p> <p>20 A. Overseeing the policy.</p> <p>21 Q. When you say overseeing policy, what do</p> <p>22 you mean by that?</p>

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<p>1 you --</p> <p>2 A. Yes.</p> <p>3 Q. And then at some point is it your</p> <p>4 understanding that Gail Sexton took it over from</p> <p>5 Cindy Bergin or were they both working on it?</p> <p>6 A. She -- Cindy trained Gail and then Gail</p> <p>7 took it over when Cindy left the area.</p> <p>8 Q. So it sounds to me -- and please tell me</p> <p>9 if I'm mischaracterizing this or misunderstanding</p> <p>10 this -- that the mechanics of the FUL program were</p> <p>11 handled primarily by one person, but there was some</p> <p>12 overlap in training. Is that right?</p> <p>13 MS. MARTINEZ: Objection, form.</p> <p>14 A. Generally speaking. There were periods</p> <p>15 when it was just one person. And then when there</p> <p>16 were two, even though one was training they were</p> <p>17 both working on it.</p> <p>18 Q. And did you first get involved -- is it</p> <p>19 your recollection that a transition between yourself</p> <p>20 and Mr. Rodler happened in the early '90s; is that</p> <p>21 fair to say?</p> <p>22 A. When Pete retired then I took it over.</p>	<p>1 Q. Was that the same position that you had?</p> <p>2 A. Yes.</p> <p>3 Q. So you were equals, so to speak?</p> <p>4 A. Most of the analysts in our area are all</p> <p>5 health insurance specialists.</p> <p>6 Q. Okay. And you indicated that Mr. Reed</p> <p>7 would have some input into the FULs and I think you</p> <p>8 used the word even the final say.</p> <p>9 A. Correct.</p> <p>10 Q. What does that mean?</p> <p>11 A. He's the division director.</p> <p>12 Q. So what would the extent of his</p> <p>13 involvement be with FULs? When would he get</p> <p>14 involved?</p> <p>15 A. Throughout -- whenever necessary he was</p> <p>16 there to discuss issues that might need to be</p> <p>17 discussed. The final publication he was aware of</p> <p>18 and would have to give his okay in order to send it</p> <p>19 through or any letters that would go through</p> <p>20 generally were from an authority higher than me.</p> <p>21 Q. Can you tell me what kind of issues would</p> <p>22 come up in the FUL program that would necessitate</p>
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<p>1 Q. And was there anyone else working on the</p> <p>2 FUL issues besides yourself from that point until</p> <p>3 Cindy Bergin came on in the mid to late '90s?</p> <p>4 A. There was a period of time where I</p> <p>5 trained Altamease Arnold, but --</p> <p>6 Q. Was she in your office?</p> <p>7 A. She was in our office. But she was</p> <p>8 never -- she never really worked on the program per</p> <p>9 se.</p> <p>10 Q. When you say per se, what do you mean by</p> <p>11 that? Officially or what does that mean?</p> <p>12 A. She never really learned the program to</p> <p>13 work on it.</p> <p>14 Q. What does it mean to learn the program?</p> <p>15 A. When you try to teach someone the program</p> <p>16 but they choose not to absorb what you're teaching.</p> <p>17 Q. Got it. Is she still working at CMS?</p> <p>18 A. No.</p> <p>19 Q. When did she leave CMS?</p> <p>20 A. She retired last year.</p> <p>21 Q. What was her position at CMS?</p> <p>22 A. Health insurance specialist.</p>	<p>1 his involvement?</p> <p>2 A. Maybe just general discussion.</p> <p>3 Especially when I was the only one working on the</p> <p>4 FUL program, just a general discussion of maybe</p> <p>5 particular drugs, the pricing just somebody to have</p> <p>6 an open discussion about how we're setting the</p> <p>7 prices, because there's manual review involved.</p> <p>8 Q. What do you mean when you say there's</p> <p>9 manual review involved? And we'll get into a little</p> <p>10 bit more the mechanics, but generally speaking what</p> <p>11 do you mean by that?</p> <p>12 A. Generally you have paper that you work</p> <p>13 from. You have the compendia with all the drug</p> <p>14 numbers on it and the pricing. And sometimes you</p> <p>15 have to make determinations if it looks like a drug</p> <p>16 is truly available or not, whether you should follow</p> <p>17 up and see if it's available. Sometimes it's better</p> <p>18 to discuss it with someone to see that you're</p> <p>19 looking at it the same way that they might be</p> <p>20 looking at it.</p> <p>21 Q. When you say truly available, do you</p> <p>22 remember is the product available from a particular</p>

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<p>1 manufacturer, whether it be because they quit making 2 the drug or they have a shortage of the drug? Is 3 that what you're talking about?</p> <p>4 A. I think what I'm talking about, at least 5 preliminarily, is we have printouts from the 6 compendia. And just looking at the printouts, 7 sometimes there might be pricing that looks like 8 it's not updated in the compendia source. So you 9 might want to discuss and say does this look like 10 it's maybe old pricing, maybe we should follow up 11 and see if it's still available. Has the pricing 12 been updated, is the drug still out there, because a 13 lot of times the compendia might not be totally up 14 to date.</p> <p>15 Q. How much of your time, if you could 16 estimate, in your position as a health insurance 17 specialist from '91 to 2003, roughly, did you spend 18 on the FUL program?</p> <p>19 A. I really can't say. There was a period 20 of time when we were trying to get a publication out 21 where I could spend the majority of my time working 22 on it. I had other duties, so the FULs couldn't</p>	<p>1 902-0446. Ms. Gaston, if you would take a look at 2 that document and let me know if that's a document 3 that you're familiar with.</p> <p>4 A. Yes. I am familiar with it.</p> <p>5 Q. Could you tell us what this document is?</p> <p>6 A. It looks like it's just an overview of 7 the federal upper limit program.</p> <p>8 Q. Did you play a part in drafting this 9 document?</p> <p>10 A. I may have. I'm not sure.</p> <p>11 Q. Ms. Gaston, can you walk me through 12 basically what you did to establish federal upper 13 limits for drugs? Can you just walk me through the 14 process?</p> <p>15 A. Do you want me to use this exhibit?</p> <p>16 Q. If it helps --</p> <p>17 A. Okay.</p> <p>18 Q. -- that would be fine. I'm just trying 19 to have you -- put me back in your office back in 20 the mid-'90s or whenever you were working on this 21 and tell me what you did.</p> <p>22 A. Well, first of all we have an</p>
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<p>1 take up all of my time every day. It just depended 2 on what activity occurred. You would stop. You 3 would work on the FULs. Then I would go back to my 4 other areas.</p> <p>5 Q. Did you work -- are you a five-day 6 employee every week or did you work part time during 7 this time?</p> <p>8 A. During the 2003 --</p> <p>9 Q. During the '91 through 2003 time period?</p> <p>10 A. I was an eight hour a day, five day --</p> <p>11 Q. Five day a week employee?</p> <p>12 A. Correct.</p> <p>13 Q. All right. Could you walk me through 14 the -- let me see if it helps facilitate the 15 discussion to find a document here that might help 16 us talk about this a bit.</p> <p>17 (Exhibit Abbott 462 was 18 marked for 19 identification.)</p> <p>20 BY MR. TORBORG:</p> <p>21 Q. For the record, what I've marked as 22 Abbott Exhibit 462 bears the Bates numbers HHC</p>	<p>1 application. I'm going to talk about it in 2 reference to the application that's used that houses 3 this information. But our systems folks when it's 4 time to set a FUL or put out a new list of FUL 5 drugs, the system folks will obtain the FDA Orange 6 Book data and they'll pull that into their system. 7 And there are some standards within that program 8 that look for the criteria that's sort of detailed 9 in this handout here.</p> <p>10 Once that criteria is met then the system 11 will pull in the latest compendia data and then 12 they'll merge the two. And the compendia data, 13 there's some criteria in there too. But they try to 14 match the compendia data to the drugs pulled from 15 the FDA. And they match them together and then the 16 application -- and I'm simplifying this -- but the 17 application will have in there FUL groups, which 18 include like all NDC numbers, and it will have the 19 FUL group, the drug names, the NDC number and then 20 the compendia and the compendia pricing in there.</p> <p>21 So it will have the source, if it's Red 22 Book, Blue Book, Medi-Span, and then it will have</p>

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<p style="text-align: right;">Page 234</p> <p>1 the prices. It will have an AWP price, a direct 2 price or WAC price. If there's not a price it'll 3 just be blank in any of those categories. And then 4 the system, the application itself -- from my 5 recollection -- it's been a while since I've used 6 it. But it will determine a FUL price where it can. 7 Then we apply some manual review just to 8 assure we have -- there's some edits and I can't 9 remember all of those. But we want to make sure 10 that it's using -- because it's supposed to use the 11 lowest price in published compendia, and we want to 12 make sure that that lowest price is a true price, 13 that it's using a true price to establish a FUL. 14 So there's a manual review that's applied 15 to some of the drugs where the pricing might not 16 look right in there or there's missing pricing. But 17 basically there's a lot of manual review that's 18 included before the final FUL listing will come out. 19 Q. Okay. I appreciate that. I'm going to 20 try to follow up on each of those steps as best I 21 can. You indicated that there was a system 22 involved.</p>	<p style="text-align: right;">Page 236</p> <p>1 CMS in the systems department that was involved in 2 this? 3 A. In the switch to the new application? 4 Q. Yeah. And basically the FUL program in 5 general. Who was involved in loading data -- 6 A. The systems support was Dona Kaufman. 7 D-o-n-a. 8 Q. Was there anyone else you recall or was 9 she the primary person? 10 A. There was someone before her, but he no 11 longer works for CMS and I can't remember his name. 12 But she was the main one for the new application. 13 Q. Do you know if she's still there today? 14 A. Yes. 15 Q. Do you recall when the new application -- 16 when you moved from the mainframe to the new 17 application? 18 A. Time? 19 Q. Yes. When that happened. 20 A. After '95. 21 Q. Prior to 1995 was the process still 22 computerized bringing in information from the</p>
<p style="text-align: right;">Page 235</p> <p>1 A. It's an application. 2 Q. I think I've seen some documents that 3 indicate the FUL process was computerized? 4 A. Correct. 5 Q. Right? Is that what you're talking about 6 when you talk about the system? 7 A. Yeah. It's an application that they use. 8 Q. And what kind of application is it? 9 A. I'm not a techie person. I don't know. 10 It's on the computer. It's an application. I don't 11 know what more -- how to describe it. 12 Q. Was the application set up before you 13 started working on it or did you -- 14 A. No. 15 Q. -- take part in setting it up? 16 A. When I first started working on FULs it 17 was in our mainframe. The activity would occur in 18 our mainframe. They took it from the mainframe and 19 put it into an application that they can use on the 20 computer, if that helps. 21 Q. And do you recall -- was there someone -- 22 you mentioned systems folks. Was there somebody at</p>	<p style="text-align: right;">Page 237</p> <p>1 compendia and that kind of information? 2 A. It was brought into the mainframe. 3 Q. Just brought into a different computer in 4 other words? I'm not a techie either. 5 A. I'm just saying mainframe because that's 6 what I know. 7 Q. And do you know what the application is 8 called? 9 A. FULs. 10 Q. FULs. Now, the Orange Book has a place 11 in this process, correct? 12 A. Right. 13 Q. And could you tell us what the Orange 14 Book is and what impact it had? 15 A. The FDA Orange Book. It lists the drugs 16 that are grouped by the FDA. If you have an Orange 17 Book available, I think they have on the front 18 page -- yeah -- the Orange Book can explain it much 19 better than I can. But -- yeah. 20 Q. I'm handing you our only copy of the 21 Orange Book. 22 A. But they get this electronically and it</p>

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